

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

CR. NO. 97-245 (PG)

LUIS CARIBE-GARCIA (3),

Defendant.

ORDER

On April 23, 2010, the Court denied Defendant's "Motion for Writ of Audita Querela" and the Defendant appealed. On September 9, 2010, the First Circuit Court of Appeals ordered this Court to either issue or deny a certificate of appealability in accordance with Rule 11(a) of the Rules Governing § 2255 Proceedings. See Docket No. 962.

Pursuant to Rule 11(a) of the Rules Governing § 2255 Proceedings, "[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." USCS Sec 2255 Proc R 11(a). Pursuant to said rule, for a court to issue such a certificate, the court must find that the applicant has made a substantial showing of the denial of a constitutional right in accordance with 28 U.S.C. § 2253(c) (2). Id. Here, Defendant has failed to make the required substantial showing that would warrant the issuance of the certificate of appealability ("COA"). Accordingly, pursuant to the applicable law, a COA is hereby **DENIED**.

**SO ORDERED.**

In San Juan, Puerto Rico, September 21, 2010.

S/ JUAN M. PEREZ-GIMENEZ  
JUAN M. PEREZ-GIMENEZ  
SENIOR U. S. DISTRICT JUDGE